

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 316

# SENATE BILL 1335

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1517; AMENDING SECTIONS 43-222 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1074.02; RELATING TO SMALL BUSINESS INVESTMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,  
3 is amended by adding section 41-1517, to read:

4 41-1517. Capital investment incentives; evaluation; definitions

5 A. BEGINNING JULY 1, 2006, THE DEPARTMENT OF COMMERCE SHALL RECEIVE  
6 AND EVALUATE APPLICATIONS THAT ARE SUBMITTED BY QUALIFIED INVESTORS TO  
7 RECEIVE A TAX CREDIT PURSUANT TO SECTION 43-1074.02 FOR QUALIFIED INVESTMENTS  
8 MADE IN A QUALIFIED SMALL BUSINESS AND CERTIFY TO THE DEPARTMENT OF REVENUE  
9 THE NAMES, AMOUNTS AND OTHER RELEVANT INFORMATION RELATING TO THE APPLICANTS.

10 B. TO BE ELIGIBLE FOR A TAX CREDIT PURSUANT TO THIS SECTION AND  
11 SECTION 43-1074.02, A QUALIFIED INVESTOR SHALL FILE AN APPLICATION WITH THE  
12 DEPARTMENT OF COMMERCE WITHIN THIRTY DAYS AFTER MAKING A QUALIFIED  
13 INVESTMENT. THE APPLICATION, ON A FORM PRESCRIBED BY THE DEPARTMENT OF  
14 COMMERCE, SHALL INCLUDE:

15 1. THE NAME, ADDRESS AND FEDERAL INCOME TAX IDENTIFICATION NUMBER OF  
16 THE APPLICANT.

17 2. THE NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE  
18 QUALIFIED SMALL BUSINESS THAT RECEIVED A QUALIFIED INVESTMENT MADE BY THE  
19 APPLICANT.

20 3. THE DATE THE QUALIFIED INVESTMENT WAS MADE.

21 4. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT OF COMMERCE  
22 REQUIRES.

23 C. AS PART OF THE APPLICATION, THE APPLICANT AND THE QUALIFIED SMALL  
24 BUSINESS THAT RECEIVES THE INVESTMENT SHALL EACH PROVIDE WRITTEN  
25 AUTHORIZATION PURSUANT TO SECTION 42-2003 DESIGNATING THE DEPARTMENT OF  
26 COMMERCE AS ELIGIBLE TO RECEIVE TAX INFORMATION FROM THE DEPARTMENT OF  
27 REVENUE FOR THE PURPOSE OF DETERMINING IF ANY MISREPRESENTATIONS EXIST ON THE  
28 APPLICATION. THE AUTHORIZATION SHALL LIMIT DISCLOSURE TO INCOME TAX  
29 INFORMATION FOR THE LATEST TWO YEARS FOR WHICH RETURNS WERE FILED WITH THE  
30 DEPARTMENT OF REVENUE PRECEDING THE DATE THE APPLICATION IS FILED AND FOR ALL  
31 TAX YEARS THROUGH THE YEAR IN WHICH THE INVESTMENT WAS MADE FOR WHICH A  
32 RETURN WAS NOT FILED AS OF THE DATE OF THE APPLICATION. THE APPLICANT SHALL  
33 ALSO PROVIDE IN THE WRITTEN AUTHORIZATION INCOME TAX INFORMATION FOR ALL TAX  
34 YEARS IN WHICH THE APPLICANT COULD CLAIM OR CARRY FORWARD THE CREDIT PURSUANT  
35 TO THIS SECTION, BUT LIMITED TO THE TAX YEARS IN WHICH THE APPLICANT ACTUALLY  
36 CLAIMS A CREDIT OR CARRIES FORWARD A CREDIT ON A RETURN FILED WITH THE  
37 DEPARTMENT OF REVENUE. AN APPLICANT WHO HAS AN INDIVIDUAL OWNERSHIP INTEREST  
38 AS A CO-OWNER OF A BUSINESS WHO MAY BE ENTITLED TO A PRO RATA SHARE OF THE  
39 CREDIT PURSUANT TO SECTION 43-1074.02, SUBSECTION E SHALL PROVIDE A WRITTEN  
40 AUTHORIZATION WITH CONTENT SIMILAR TO THE AUTHORIZATION, AND IN THE SAME  
41 MANNER AS, ANY OTHER APPLICANT IS REQUIRED TO PROVIDE.

42 D. THE DEPARTMENT OF COMMERCE SHALL REVIEW AND MAKE A DETERMINATION  
43 WITH RESPECT TO EACH APPLICATION WITHIN NINETY DAYS AFTER RECEIVING THE  
44 APPLICATION. THE DEPARTMENT OF COMMERCE MAY REQUEST ADDITIONAL INFORMATION

1 FROM THE APPLICANT IN ORDER TO MAKE AN INFORMED DECISION REGARDING THE  
2 ELIGIBILITY OF THE QUALIFIED INVESTOR OR QUALIFIED SMALL BUSINESS.

3 E. SUBJECT TO SUBSECTION F OF THIS SECTION, THE DEPARTMENT OF COMMERCE  
4 SHALL AUTHORIZE TAX CREDITS FOR EACH QUALIFIED INVESTOR WHO MAKES A QUALIFIED  
5 INVESTMENT IN A QUALIFIED SMALL BUSINESS. THE AMOUNT OF THE CREDIT SHALL BE:

6 1. IF THE QUALIFIED INVESTMENT IS MADE IN A QUALIFIED SMALL BUSINESS  
7 THAT MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS IN A RURAL COUNTY OF THIS  
8 STATE OR IS A BIOSCIENCE ENTERPRISE, TWELVE PER CENT OF THE AMOUNT OF THE  
9 INVESTMENT PER YEAR FOR THE FIRST AND SECOND TAXABLE YEARS AFTER THE  
10 INVESTMENT IS MADE AND ELEVEN PER CENT OF THE AMOUNT OF THE INVESTMENT FOR  
11 THE THIRD TAXABLE YEAR AFTER THE YEAR IN WHICH THE INVESTMENT IS MADE.

12 2. IF THE QUALIFIED INVESTMENT IS MADE IN A QUALIFIED SMALL BUSINESS  
13 OTHER THAN A BUSINESS DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION, TEN PER  
14 CENT OF THE AMOUNT OF THE INVESTMENT FOR EACH OF THE THREE TAXABLE YEARS  
15 AFTER THE YEAR IN WHICH THE INVESTMENT IS MADE.

16 F. THE DEPARTMENT OF COMMERCE SHALL NOT AUTHORIZE TAX CREDITS UNDER  
17 THIS SECTION AFTER JUNE 30, 2011. THE DEPARTMENT OF COMMERCE SHALL NOT  
18 CERTIFY TAX CREDITS UNDER THIS SECTION EXCEEDING TWENTY MILLION DOLLARS. TAX  
19 CREDITS THAT EXPIRE AFTER CERTIFICATION OR THAT ARE OTHERWISE NOT TIMELY USED  
20 BY THE QUALIFIED INVESTOR FOR WHOM THEY WERE ORIGINALLY AUTHORIZED SHALL BE  
21 INCLUDED IN THE TWENTY MILLION DOLLAR LIMITATION. IF QUALIFYING APPLICATIONS  
22 EXCEED TWENTY MILLION DOLLARS, THE DEPARTMENT OF COMMERCE SHALL AUTHORIZE  
23 CREDITS IN THE ORDER OF THE DATE AND TIME THAT THE APPLICATIONS ARE RECEIVED  
24 BY THE DEPARTMENT OF COMMERCE, AS EVIDENCED BY THE TIME AND DATE STAMPED ON  
25 THE APPLICATION WHEN RECEIVED BY THE DEPARTMENT. ALL APPLICATIONS SHALL BE  
26 FILED IN PERSON AT THE DEPARTMENT OF COMMERCE. IF AN APPLICATION IS RECEIVED  
27 THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT OF COMMERCE TO EXCEED THE  
28 TWENTY MILLION DOLLAR LIMIT, THE DEPARTMENT OF COMMERCE SHALL ONLY GRANT THE  
29 APPLICANT THE REMAINING AMOUNT OF TAX CREDITS THAT WOULD NOT EXCEED THE  
30 TWENTY MILLION DOLLAR LIMIT. AFTER THE DEPARTMENT OF COMMERCE AUTHORIZES  
31 TWENTY MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT OF COMMERCE SHALL DENY  
32 ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED. THE DEPARTMENT OF COMMERCE  
33 SHALL CERTIFY TO THE QUALIFIED INVESTOR AND TO THE DEPARTMENT OF REVENUE THE  
34 AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED FOR PURPOSES OF SECTION  
35 43-1074.02 FOR EACH TAXABLE YEAR DESCRIBED IN SUBSECTION E OF THIS SECTION.

36 G. THE TOTAL OF ALL QUALIFIED INVESTMENTS IN ANY CALENDAR YEAR BY A  
37 QUALIFIED INVESTOR AND ITS AFFILIATES IN QUALIFIED SMALL BUSINESSES THAT ARE  
38 ELIGIBLE FOR A TAX CREDIT PURSUANT TO THIS SECTION AND SECTION 43-1074.02  
39 SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS. THE MAXIMUM AMOUNT OF  
40 QUALIFIED INVESTMENTS IN A SINGLE QUALIFIED SMALL BUSINESS FOR WHICH THE  
41 DEPARTMENT OF COMMERCE MAY AUTHORIZE TAX CREDITS UNDER THIS SECTION SHALL NOT  
42 EXCEED AN AGGREGATE OF TWO MILLION DOLLARS IN INVESTMENTS FOR ALL TAXABLE  
43 YEARS. IF APPLICATIONS FOR TAX CREDITS ARE RECEIVED FOR INVESTMENTS THAT  
44 EXCEED THE LIMITS PRESCRIBED BY THIS SUBSECTION FOR ANY QUALIFIED SMALL  
45 BUSINESS, THE DEPARTMENT OF COMMERCE SHALL AUTHORIZE CREDITS IN THE ORDER OF

1 THE DATE AND TIME THAT THE APPLICATIONS ARE RECEIVED BY THE DEPARTMENT OF  
2 COMMERCE. IF AN APPLICATION IS RECEIVED THAT, IF AUTHORIZED, WOULD REQUIRE  
3 THE DEPARTMENT OF COMMERCE TO AUTHORIZE TAX CREDITS FOR ANY INVESTMENT IN A  
4 QUALIFIED SMALL BUSINESS THAT WOULD CAUSE THE TOTAL QUALIFIED INVESTMENTS IN  
5 THE BUSINESS TO EXCEED THE LIMITS PRESCRIBED BY THIS SUBSECTION, THE  
6 DEPARTMENT OF COMMERCE SHALL ONLY GRANT THE APPLICANT THE REMAINING AMOUNT OF  
7 TAX CREDITS THAT WOULD NOT EXCEED THE LIMITS PRESCRIBED BY THIS SUBSECTION.

8 H. THE QUALIFIED INVESTOR SHALL FILE A RETURN CLAIMING THE TAX CREDIT  
9 WITH THE DEPARTMENT OF REVENUE FOR APPLICATION AGAINST INCOME TAX PURSUANT TO  
10 SECTION 43-1074.02 BY THE DUE DATE OF THE RETURN, INCLUDING EXTENSIONS, FOR  
11 THE TAX YEAR IN WHICH THE CREDIT IS AVAILABLE. IF THE QUALIFIED INVESTOR  
12 FAILS TO TIMELY FILE A RETURN CLAIMING THE CREDIT FOR A TAXABLE YEAR, THE  
13 CREDIT EXPIRES FOR THAT TAXABLE YEAR AND THERE SHALL BE NO CARRYFORWARD OF  
14 THE EXPIRED CREDIT. IF A QUALIFIED INVESTOR INCLUDES CO-OWNERS OF A BUSINESS  
15 WHO QUALIFY FOR INDIVIDUAL PRO RATA SHARES OF THE CREDIT PURSUANT TO SECTION  
16 43-1074.02, SUBSECTION E, EACH INDIVIDUAL OWNER SHALL FILE A RETURN CLAIMING  
17 THE TAX CREDIT WITH THE DEPARTMENT OF REVENUE BY THE DUE DATE OF THE RETURN,  
18 INCLUDING EXTENSIONS, FOR THE TAX YEAR IN WHICH THE CREDIT IS AVAILABLE. IF  
19 AN INDIVIDUAL CO-OWNER FAILS TO TIMELY FILE A RETURN CLAIMING THE CREDIT FOR  
20 A TAXABLE YEAR, THE CREDIT EXPIRES FOR THAT TAXABLE YEAR AND THERE SHALL BE  
21 NO CARRYFORWARD OF THE EXPIRED CREDIT. CREDITS THAT EXPIRE OR THAT OTHERWISE  
22 ARE NOT TIMELY USED BY THE QUALIFIED INVESTOR OR BY THE INDIVIDUAL CO-OWNER  
23 OF A BUSINESS FOR WHOM THE CREDITS WERE ORIGINALLY AUTHORIZED SHALL NOT BE  
24 REISSUED.

25 I. ON RECEIVING AN APPLICATION FOR A TAX CREDIT FROM A QUALIFIED  
26 INVESTOR, OR A WRITTEN REQUEST FOR CERTIFICATION AS A QUALIFIED SMALL  
27 BUSINESS FROM A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR OTHER  
28 BUSINESS ENTITY, THE DEPARTMENT OF COMMERCE SHALL DETERMINE WHETHER THE  
29 CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR OTHER BUSINESS ENTITY  
30 THAT IS NAMED IN THE APPLICATION OR WRITTEN REQUEST IS A QUALIFIED SMALL  
31 BUSINESS. THE DEPARTMENT OF COMMERCE SHALL DETERMINE IF THE BUSINESS IS A  
32 BIOSCIENCE ENTERPRISE AND IF THE BUSINESS MAINTAINS ITS PRINCIPAL PLACE OF  
33 BUSINESS IN A RURAL COUNTY IN THIS STATE. AFTER DETERMINING THE  
34 QUALIFICATIONS, THE DEPARTMENT OF COMMERCE SHALL CERTIFY THE QUALIFIED SMALL  
35 BUSINESS AS BEING ELIGIBLE TO RECEIVE QUALIFIED INVESTMENTS FOR PURPOSES OF  
36 THIS SECTION. THE CERTIFICATION IS VALID FOR ONE YEAR, BUT THE DEPARTMENT OF  
37 COMMERCE MAY REVOKE THE CERTIFICATION AT ANY TIME OR REFUSE TO RENEW THE  
38 CERTIFICATION IF THE BUSINESS FAILS TO MAINTAIN THE REQUIRED QUALIFICATIONS.  
39 IF A QUALIFIED SMALL BUSINESS FAILS TO MAINTAIN THE QUALIFICATIONS, THE  
40 BUSINESS SHALL NOTIFY THE DEPARTMENT OF COMMERCE WITHIN FIVE BUSINESS DAYS OF  
41 FAILING TO MEET THE QUALIFICATIONS. THE DEPARTMENT OF COMMERCE SHALL REVOKE  
42 THE CERTIFICATION OF THE BUSINESS AND MAY ASSESS A PENALTY AGAINST THE  
43 BUSINESS ENTITY EQUAL TO THE AMOUNT OF THE TAX CREDITS AUTHORIZED AFTER THE  
44 BUSINESS FAILED TO MEET THE QUALIFICATIONS. THE PENALTY SHALL BE DEPOSITED  
45 INTO THE STATE GENERAL FUND. IF THE CERTIFICATION IS REVOKED OR EXPIRES,

1 SUBSEQUENT INVESTMENTS IN THE BUSINESS DO NOT QUALIFY FOR A TAX CREDIT  
2 PURSUANT TO THIS SECTION AND SECTION 43-1074.02. ALL TAX CREDITS THAT ARE  
3 ISSUED BEFORE ANY EXPIRATION OR REVOCATION OF THE CERTIFICATION SHALL REMAIN  
4 VALID. ANY APPLICATION FOR A TAX CREDIT SHALL NOT BE DENIED ON THE BASIS OF  
5 THE EXPIRATION OR REVOCATION OF THE CERTIFICATION IF THE INVESTMENT WAS MADE  
6 BEFORE THE DATE OF THE EXPIRATION OR REVOCATION.

7 J. THE DEPARTMENT OF COMMERCE SHALL PROVIDE TO THE DEPARTMENT OF  
8 REVENUE NECESSARY INFORMATION REQUIRED TO ADMINISTER THIS SECTION AND SECTION  
9 43-1074.02. IF THE DEPARTMENT OF COMMERCE SUBSEQUENTLY DISCOVERS THAT AN  
10 APPLICANT WHO RECEIVED A TAX CREDIT MISREPRESENTED INFORMATION ON THE  
11 APPLICATION, THE DEPARTMENT OF COMMERCE SHALL IMMEDIATELY NOTIFY THE  
12 DEPARTMENT OF REVENUE AND PROVIDE THE DEPARTMENT OF REVENUE ALL INFORMATION  
13 THAT RELATES TO THAT APPLICANT. IF THE DEPARTMENT OF REVENUE DETERMINES THAT  
14 THERE HAS BEEN A MISREPRESENTATION ON THE APPLICATION, THE DEPARTMENT OF  
15 REVENUE SHALL DENY THE CREDIT IF THE MISREPRESENTATION RELATES TO WHETHER THE  
16 APPLICANT WAS A QUALIFIED INVESTOR OR MADE A QUALIFIED INVESTMENT. IF THE  
17 MISREPRESENTATION RELATES TO WHETHER THE INVESTMENT WAS MADE TO:

18 1. A QUALIFIED SMALL BUSINESS, THE DEPARTMENT OF REVENUE SHALL DENY  
19 THE CREDIT ONLY IF THE APPLICANT KNEW OR SHOULD HAVE KNOWN AT ANY TIME BEFORE  
20 THE CERTIFICATION THAT THE REPRESENTATION WAS FALSE.

21 2. A BIOSCIENCE ENTERPRISE OR A BUSINESS THAT MAINTAINS ITS PRINCIPAL  
22 PLACE OF BUSINESS IN A RURAL COUNTY IN THIS STATE, THE DEPARTMENT OF REVENUE  
23 SHALL DECREASE THE AMOUNT OF THE CREDIT THAT WOULD HAVE BEEN ALLOWED UNDER  
24 SUBSECTION E, PARAGRAPH 1 OF THIS SECTION TO THE AMOUNT ALLOWED UNDER  
25 SUBSECTION E, PARAGRAPH 2 OF THIS SECTION ONLY IF THE APPLICANT KNEW OR  
26 SHOULD HAVE KNOWN AT ANY TIME BEFORE THE CERTIFICATION THAT THE  
27 REPRESENTATION WAS FALSE.

28 K. FOR THE PURPOSES OF THIS SECTION:

29 1. "AFFILIATE" MEANS ANY PERSON OR ENTITY THAT CONTROLS, THAT IS  
30 CONTROLLED BY OR THAT IS UNDER COMMON CONTROL WITH ANOTHER PERSON OR ENTITY.  
31 FOR THE PURPOSES OF THIS PARAGRAPH, "CONTROL" MEANS THE POWER TO DETERMINE  
32 THE POLICIES OF AN ENTITY WHETHER THROUGH OWNERSHIP OF VOTING SECURITIES, BY  
33 CONTRACT OR OTHERWISE.

34 2. "ASSET" MEANS ANY OWNED PROPERTY THAT HAS VALUE INCLUDING FINANCIAL  
35 ASSETS AND PHYSICAL ASSETS. INTELLECTUAL PROPERTY SHALL NOT BE INCLUDED WHEN  
36 DETERMINING TOTAL ASSETS.

37 3. "BIOSCIENCE ENTERPRISE" MEANS A BUSINESS WHOSE ACTIVITY IS RELATED  
38 TO BIOSCIENCE AS DETERMINED BY THE DEPARTMENT OF COMMERCE OR ANY CORPORATION,  
39 PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY THAT IS  
40 PRIMARILY ENGAGED IN A BUSINESS THAT CONDUCTS RESEARCH, DEVELOPMENT,  
41 MANUFACTURE, MARKETING, SALE AND LICENSING OF PRODUCTS, SERVICES AND  
42 SOLUTIONS RELATING TO EITHER OF THE FOLLOWING:

43 (a) MEDICAL, PHARMACEUTICAL, NUTRACEUTICAL, BIOENGINEERING,  
44 BIOMECHANICAL, BIOINFORMATICS OR OTHER LIFE-SCIENCE BASED APPLICATIONS.

1 (b) APPLICATIONS OF MODERN BIOLOGICAL, BIOENGINEERING, BIOMECHANICAL  
2 OR BIOINFORMATICS TECHNOLOGIES IN THE FIELDS OF HUMAN, PLANT OR ANIMAL  
3 HEALTH, AGRICULTURE, DEFENSE, HOMELAND SECURITY OR THE ENVIRONMENT.

4 4. "QUALIFIED INVESTMENT" MEANS AN INVESTMENT IN AN EQUITY SECURITY  
5 THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

6 (a) THE EQUITY SECURITY SHALL BE COMMON STOCK, PREFERRED STOCK, AN  
7 INTEREST IN A PARTNERSHIP OR LIMITED LIABILITY COMPANY, A SECURITY THAT IS  
8 CONVERTIBLE INTO AN EQUITY SECURITY OR OTHER EQUITY SECURITY AS DETERMINED BY  
9 THE DEPARTMENT OF COMMERCE.

10 (b) THE INVESTMENT SHALL BE AT LEAST TWENTY-FIVE THOUSAND DOLLARS.

11 (c) THE QUALIFIED INVESTOR AND ITS AFFILIATES DO NOT HOLD, OF RECORD  
12 OR BENEFICIALLY, IMMEDIATELY BEFORE MAKING AN INVESTMENT, EQUITY SECURITIES  
13 POSSESSING MORE THAN THIRTY PER CENT OF THE TOTAL VOTING POWER OF ALL EQUITY  
14 SECURITIES OF THE QUALIFIED SMALL BUSINESS.

15 5. "QUALIFIED INVESTOR" MEANS AN INDIVIDUAL, LIMITED LIABILITY  
16 COMPANY, PARTNERSHIP, S CORPORATION AS DEFINED IN SECTION 1361 OF THE  
17 INTERNAL REVENUE CODE OR OTHER BUSINESS ENTITY THAT MAKES A QUALIFIED  
18 INVESTMENT IN A QUALIFIED SMALL BUSINESS. QUALIFIED INVESTOR DOES NOT MEAN A  
19 CORPORATION THAT IS SUBJECT TO TAX UNDER TITLE 43, CHAPTER 11.

20 6. "QUALIFIED SMALL BUSINESS" MEANS A CORPORATION, LIMITED LIABILITY  
21 COMPANY, PARTNERSHIP OR OTHER BUSINESS ENTITY THAT:

22 (a) MAINTAINS AT LEAST A PORTION OF ITS OPERATIONS AT AN OFFICE OR  
23 MANUFACTURING OR RESEARCH FACILITY LOCATED IN THIS STATE.

24 (b) HAS AT LEAST TWO PRINCIPAL FULL-TIME EQUIVALENT EMPLOYEES WHO ARE  
25 RESIDENTS IN THIS STATE. FOR THE PURPOSES OF THIS SUBDIVISION, "PRINCIPAL"  
26 MEANS A PERSON WHOSE SOLE RESPONSIBILITY IS NOT ADMINISTRATIVE.

27 (c) DOES NOT HAVE A PRINCIPAL BUSINESS INVOLVING ANY OF THE FOLLOWING:

28 (i) SALES OR DISTRIBUTION OF RETAIL GOODS OR FOOD OR RESTAURANT  
29 SERVICES.

30 (ii) DEVELOPMENT, SALE, LEASING, RENTAL OR OPERATION OF OR INVESTMENT  
31 IN, REAL ESTATE.

32 (iii) PROVIDING PROFESSIONAL SERVICES, EXCEPT FOR PROFESSIONAL  
33 SERVICES FOR HARDWARE OR SOFTWARE LICENSED OR SOLD BY THE PROVIDER OF SUCH  
34 SERVICES.

35 (iv) PROVIDING HEALTH CARE SERVICES TO PATIENTS, EXCEPT FOR SERVICES  
36 PROVIDED IN CONNECTION WITH RESEARCH, DEVELOPMENT, CLINICAL TRIALS AND  
37 MARKETING ACTIVITIES BY BIOSCIENCE ENTERPRISES.

38 (v) PROVIDING BANKING, BROKERAGE, INSURANCE OR OTHER FINANCIAL OR  
39 INVESTMENT SERVICES.

40 (vi) PROVIDING PERSONAL SERVICES.

41 (vii) OPERATING MINING, FORESTRY AND OTHER NATURAL RESOURCE  
42 EXPLOITATION OR EXTRACTION BUSINESSES, EXCEPT FOR RESEARCH AND DEVELOPMENT IN  
43 THESE BUSINESSES.

44 (viii) AGRICULTURAL OPERATIONS, EXCEPT FOR RESEARCH AND DEVELOPMENT IN  
45 THESE BUSINESSES.

(ix) OPERATING AN INVESTMENT COMPANY OR FUND.

(x) ANY OTHER BUSINESS ACTIVITY THAT THE DEPARTMENT OF COMMERCE DETERMINES BY RULE TO BE UNSUITED TO FULFILL THE PURPOSES OF THIS SECTION.

(d) DOES NOT ENGAGE IN ANY ACTIVITIES THAT INVOLVE HUMAN CLONING OR EMBRYONIC STEM CELL RESEARCH.

(e) HAS TOTAL ASSETS NOT EXCEEDING TWO MILLION DOLLARS, EXCLUDING ANY INVESTMENT MADE UNDER THIS SECTION.

(f) HAS NOT EXCEEDED THE LIMITATION ON QUALIFIED INVESTMENTS PRESCRIBED BY SUBSECTION G OF THIS SECTION.

7. "RURAL COUNTY" MEANS A COUNTY THAT HAS A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER PERSONS.

Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read: 43-222. Income tax credit review schedule

Each year the joint legislative income tax credit review committee shall review the following income tax credits:

1. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

2. In 2005, sections 43-1087, 43-1088 and 43-1175.

3. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1176 and 43-1181.

4. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165, 43-1166, 43-1167 and 43-1169.

5. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

6. In 2009, sections 43-1076 and 43-1162.

7. IN 2011, SECTION 43-1074.02.

Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read: 43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1976, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and

1 premiums paid by the taxpayer. This paragraph applies only to those  
2 annuities with respect to which the first payment was received prior to  
3 December 31, 1978.

4 5. The excess of a partner's share of partnership taxable income  
5 required to be included under chapter 14, article 2 of this title over the  
6 income required to be reported under section 702(a)(8) of the internal  
7 revenue code.

8 6. The excess of a partner's share of partnership losses determined  
9 pursuant to section 702(a)(8) of the internal revenue code over the losses  
10 allowable under chapter 14, article 2 of this title.

11 7. The amount by which the adjusted basis of property described in  
12 this paragraph and computed pursuant to the internal revenue code exceeds the  
13 adjusted basis of such property computed pursuant to this title and the  
14 income tax act of 1954, as amended. This paragraph shall apply to all  
15 property which is held for the production of income and which is sold or  
16 otherwise disposed of during the taxable year, except depreciable property  
17 used in a trade or business.

18 8. The amount of depreciation or amortization of costs of any capital  
19 investment that is deducted pursuant to section 167 or 179 of the internal  
20 revenue code by a qualified defense contractor with respect to which an  
21 election is made to amortize pursuant to section 43-1024.

22 9. The amount of gain from the sale or other disposition of a capital  
23 investment which a qualified defense contractor has elected to amortize  
24 pursuant to section 43-1024.

25 10. Amounts withdrawn from the Arizona state retirement system, the  
26 corrections officer retirement plan, the public safety personnel retirement  
27 system, the elected officials' retirement plan or a county or city retirement  
28 plan by an employee upon termination of employment before retirement to the  
29 extent they were deducted in arriving at Arizona taxable income in any year.

30 11. That portion of the net operating loss included in federal adjusted  
31 gross income which has already been taken as a net operating loss for Arizona  
32 purposes or which is separately taken as a subtraction under the special net  
33 operating loss transition rule.

34 12. Any nonitemized amount deducted pursuant to section 170 of the  
35 internal revenue code representing contributions to an educational  
36 institution which denies admission, enrollment or board and room  
37 accommodations on the basis of race, color or ethnic background except those  
38 institutions primarily established for the education of American Indians.

39 13. The amount paid as taxes on property in this state with respect to  
40 which a credit is claimed under section 43-1078.

41 14. Amounts withdrawn from a medical savings account by the individual  
42 during the taxable year computed pursuant to section 220(f) of the internal  
43 revenue code and not included in federal adjusted gross income.



1        15. Any amount of agricultural water conservation expenses that were  
2 deducted pursuant to the internal revenue code for which a credit is claimed  
3 under section 43-1084.

4        16. The amount by which the depreciation or amortization computed under  
5 the internal revenue code with respect to property for which a credit was  
6 taken under section 43-1080 exceeds the amount of depreciation or  
7 amortization computed pursuant to the internal revenue code on the Arizona  
8 adjusted basis of the property.

9        17. The amount by which the adjusted basis computed under the internal  
10 revenue code with respect to property for which a credit was claimed under  
11 section 43-1080 and which is sold or otherwise disposed of during the taxable  
12 year exceeds the adjusted basis of the property computed under section  
13 43-1080.

14       18. The amount by which the depreciation or amortization computed under  
15 the internal revenue code with respect to property for which a credit was  
16 taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
17 depreciation or amortization computed pursuant to the internal revenue code  
18 on the Arizona adjusted basis of the property.

19       19. The amount by which the adjusted basis computed under the internal  
20 revenue code with respect to property for which a credit was claimed under  
21 ~~either~~ section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or  
22 otherwise disposed of during the taxable year exceeds the adjusted basis of  
23 the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as  
24 applicable.

25       20. The deduction referred to in section 1341(a)(4) of the internal  
26 revenue code for restoration of a substantial amount held under a claim of  
27 right.

28       21. The amount by which a net operating loss carryover or capital loss  
29 carryover allowable pursuant to section 1341(b)(5) of the internal revenue  
30 code exceeds the net operating loss carryover or capital loss carryover  
31 allowable pursuant to section 43-1029, subsection F.

32       22. Any amount deducted pursuant to section 170 of the internal revenue  
33 code representing contributions to a school tuition organization or a public  
34 school for which a credit is claimed under section 43-1089 or 43-1089.01.

35       23. Any amount deducted in computing Arizona gross income as expenses  
36 for installing solar stub outs or electric vehicle recharge outlets in this  
37 state with respect to which a credit is claimed pursuant to section 43-1090.

38       24. Any wage expenses deducted pursuant to the internal revenue code  
39 for which a credit is claimed under section 43-1087 and representing net  
40 increases in qualified employment positions for employment of temporary  
41 assistance for needy families recipients.

42       25. Any amount deducted for conveying ownership or development rights  
43 of property to an agricultural preservation district under section 48-5702  
44 for which a credit is claimed under section 43-1081.02.

1       26. The amount of any depreciation allowance allowed pursuant to  
2 section 167(a) of the internal revenue code to the extent not previously  
3 added.

4       27. With respect to property for which an expense deduction was taken  
5 pursuant to section 179 of the internal revenue code, the amount in excess of  
6 twenty-five thousand dollars.

7       Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
8 amended by adding section 43-1074.02, to read:

9       43-1074.02. Credit for investment in qualified small businesses

10       A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2006  
11 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY  
12 THIS TITLE FOR INVESTMENT MADE AFTER JUNE 30, 2006 IN QUALIFIED SMALL  
13 BUSINESSES. THE AMOUNT OF THE CREDIT IS THE AMOUNT DETERMINED AND AUTHORIZED  
14 BY THE DEPARTMENT OF COMMERCE AS PROVIDED BY SECTION 41-1517.

15       B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER SHALL ATTACH  
16 TO ITS TAX RETURN A COPY OF THE DEPARTMENT OF COMMERCE CERTIFICATION PROVIDED  
17 PURSUANT TO SECTION 41-1517. NO CREDIT IS ALLOWED UNDER THIS SECTION UNLESS  
18 THE TAXPAYER PROVIDES THE CERTIFICATION.

19       C. THE BASIS OF ANY INVESTMENT WITH RESPECT TO WHICH THE TAXPAYER HAS  
20 CLAIMED A CREDIT UNDER THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF THE  
21 CREDIT CLAIMED WITH RESPECT TO THAT INVESTMENT.

22       D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES DUE UNDER THIS TITLE  
23 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE  
24 AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE MAY BE  
25 CARRIED FORWARD TO THE NEXT THREE CONSECUTIVE TAXABLE YEARS AS A CREDIT  
26 AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

27       E. INDIVIDUALS WHO ARE CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN  
28 A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361  
29 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THEIR INDIVIDUAL PRO RATA  
30 SHARES OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THEIR OWNERSHIP  
31 INTERESTS. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED  
32 THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

33       F. IF THE DEPARTMENT OF REVENUE DETERMINES THAT THERE HAS BEEN A  
34 MISREPRESENTATION ON AN APPLICATION SUBMITTED TO THE DEPARTMENT OF COMMERCE  
35 UNDER SECTION 41-1517, THE DEPARTMENT OF REVENUE SHALL DENY THE CREDIT IF THE  
36 MISREPRESENTATION RELATES TO WHETHER THE APPLICANT WAS A QUALIFIED INVESTOR  
37 OR MADE A QUALIFIED INVESTMENT. IF THE MISREPRESENTATION RELATES TO WHETHER  
38 THE INVESTMENT WAS MADE TO:

39       1. A QUALIFIED SMALL BUSINESS, THE DEPARTMENT OF REVENUE SHALL DENY  
40 THE CREDIT ONLY IF THE APPLICANT KNEW OR SHOULD HAVE KNOWN AT ANY TIME BEFORE  
41 THE CERTIFICATION THAT THE REPRESENTATION WAS FALSE.

42       2. A BIOSCIENCE ENTERPRISE OR A BUSINESS THAT MAINTAINS ITS PRINCIPAL  
43 PLACE OF BUSINESS IN A RURAL COUNTY IN THIS STATE, THE DEPARTMENT OF REVENUE  
44 SHALL DECREASE THE AMOUNT OF THE CREDIT THAT WOULD HAVE BEEN ALLOWED ONLY IF

1 THE APPLICANT KNEW OR SHOULD HAVE KNOWN AT ANY TIME BEFORE THE CERTIFICATION  
2 THAT THE REPRESENTATION WAS FALSE.

3 Sec. 5. Purpose

4 Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
5 enacts section 43-1074.02, Arizona Revised Statutes, as added by this act, to  
6 encourage taxpayers to invest capital in businesses that are in early stages  
7 of development.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

Passed the House May 6, 20 05,

by the following vote: 50 Ayes,

6 Nays, 4 Not Voting



Speaker of the House




Chief Clerk of the House


Passed the Senate February 22, 20 05,

by the following vote: 18 Ayes,

11 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

       day of       , 20       ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20       ,

at        o'clock        M.

        
Governor of Arizona

S.B. 1335

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this        day of       , 20       ,

at        o'clock        M.

        
Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

Passed the Senate May 6, 2005,

by the following vote: 16 Ayes,

10 Nays, 4 Not Voting

Klu Blumett  
President of the Senate

Lina Scott  
~~assistant~~ Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of May, 2005

at 8:38 o'clock a. M.

Weninger Ibarra  
Secretary to the Governor

Approved this 20 day of

May, 2005,

at 9:45 o'clock 1. M.

J. N. M.  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2005,

at 3:03 o'clock P. M.

Janice K. Brewer  
Secretary of State

S.B. 1335